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Before the  
Federal Communications Commission  
Washington, D.C. 20554FCC MAIL ROOM  
May 31 4 57 PM '05

In the Matter of

Reclassification of License of  
Station KCLK-FM, Clarkston, Washington

RM-11245

## ORDER TO SHOW CAUSE

Adopted: May 25, 2005

Released: May 27, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it a petition for rulemaking filed by SSR Communications, Inc. ("Petitioner"), seeking to amend the FM Table of Allotments by allotting Channel 231C3 to Boardman, Oregon, as that community's first local FM transmission service. To accommodate the allotment of Channel 231C3 to Boardman, Oregon, Petitioner requests the reclassification of Station KCLK-FM, Channel 231C, Clarkston, Washington, to specify operation on Channel 231C0 because that station is operating at less than minimum Class C facilities. Petitioner has also certified, as required, that no other Class C3 channel is available for allotment at Boardman.<sup>1</sup>

2. Station KCLK-FM currently operates on Channel 231C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 376 meters height above average terrain (HAAT), which is less than the minimum Class C antenna height of 451 meters HAAT. The staff has tentatively concluded that if Station KCLK-FM operates as a Class C0 facility, any short-spacing between Station KCLK-FM and the proposed use of Channel 231C3 at Boardman at the proposed site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to Pacific Empire Radio of Washington, Inc. ("Pacific Empire"), licensee of Station KCLK-FM, Clarkston, Washington, to show cause why its facilities should not be reclassified.

3. Pursuant to the reclassification procedures set forth in the *Second Report and Order, supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, a petitioner may initiate the reclassification of a Class C FM station to a Class C0 station through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a Notice of Proposed Rule Making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to Pacific Empire to show cause why Station KCLK-FM's license should not be modified to specify operation on Channel 231C0 in lieu of Channel 231C at Clarkston, Washington. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30

<sup>1</sup> See 47 C.F.R. §§ 73.3573, n. 4 and 1.420(g), n.2. See also *Second Report and Order*, 15 FCC Rcd 21649, 21662-63 (2000).

days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules.<sup>2</sup> In this instance, the reclassification of Station KCLK-FM as a Class C0 station at Clarkston, Washington, will accommodate the allotment of Channel 231C3 to Boardman, Oregon, as proposed by Petitioner. We consider the proposed reclassification of Station KCLK-FM to have sufficient public interest benefits to justify the issuance of a show cause order.

4. The Station KCLK-FM license at Clarkston, Washington, can be modified to allow the reclassification of Channel 231C to Channel 231C0 at its currently authorized transmitter site.<sup>3</sup>

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Pacific Empire Radio of Washington, Inc., licensee of Station KCLK-FM, Clarkston, Washington, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 231C0, Clarkston, Washington.

6. Pursuant to Section 1.87 of the Commission's Rules, Pacific Empire Radio of Washington, Inc. may, no later than July 11, 2005, file a written statement showing with particularity why its license should not be modified as proposed in this Order to Show Cause. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the modification is found to be in the public interest. If Pacific Empire chooses to seek authority to modify Station KCLK-FM's facilities, an acceptable application for a construction permit to increase the antenna height to at least 451 meters HAAT or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (July 11, 2005).

7. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

David Tillotson, Esq.  
Law Office of David Tillotson  
4606 Charleston Terrace, N.W.  
Washington, D.C. 20007-1911  
(Counsel for Pacific Empire)

Pacific Empire Radio of Washington, Inc.  
403 C Street  
Lewiston, Idaho 83501

<sup>2</sup> See *Modification of FM and Television Licenses Pursuant to Section 316 of the Communications Act*, 2 FCC Rcd 3327 (1987).

<sup>3</sup> The reference coordinates for Channel 231C at Clarkston, Washington are: 46-27-27 NL and 117-06-03 WL.

8. For further information on this proceeding, contact R. Barthen Gorman, Media Bureau  
(202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau